



# LAWS OF MALAYSIA

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REPRINT

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**Act 253**

## **REGISTRATION OF ADOPTIONS ACT 1952**

*Incorporating all amendments up to 1 January 2006*

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## **REGISTRATION OF ADOPTIONS ACT 1952**

First enacted	... ..	...	...	...	...	1952 (F.M. Ordinance No. 54 of 1952)
Revised	... ..	...	...	...	...	1981 (Act 253 w.e.f 17 September 1981)

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**LAWS OF MALAYSIA****Act 253****REGISTRATION OF ADOPTIONS ACT 1952**

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## LAWS OF MALAYSIA

### Act 253

#### REGISTRATION OF ADOPTIONS ACT 1952

An Act to provide for the registration of adoptions.

[1 January 1955, L.N. 732/1954]

#### Short title and application

1. (1) This Act may be cited as the Registration of Adoptions Act 1952.

(2) This Act shall apply to Peninsular Malaysia only.

#### Interpretation

2. In this Act, unless the context otherwise requires—

“guardian” means the person having the legal right to the custody of the child;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [*Act 388*], and includes the Federal Territory;

“Registrar” means a Registrar of Adoptions appointed under section 4 and includes a Deputy Registrar;

“Registrar General” means the person appointed to be Registrar General of Births and Deaths, Malaysia in accordance with subsection 3(1) of the Births and Deaths Registration Act 1957 [*Act 299*];

#### The Registrar General

3. The Registrar General shall have general charge and supervision of all registers of adoptions kept under this Act and all Registrars of Adoptions shall be subject to his directions for the purposes of this Act.

### **Appointment of Registrars of Adoption**

4. (1) The Yang di-Pertuan Agong may appoint by name or office so many public officers or employees of the Commissioner appointed under \*section 4 of the Federal Capital Act 1960 [*Act 190*] as he thinks fit to be Registrars of Adoptions for the Federal Territory or for such area as may be specified in the appointment for the purposes of this Act or to be and to act as the Deputy of any such Registrar when such Registrar is absent from the Federal Territory or area or is ill or when his office is temporarily vacant.

(2) The Ruler or Yang di-Pertua Negeri in a state may appoint so many public officers, by name or by office, to be Registrars of Adoptions for the State or for such area as may be specified in the appointment for the purposes of this Act or to be and to act as the Deputy of any such Registrar when such Registrar is absent from such State or area or is ill or when his office is temporarily vacant.

### **Registrar's Register and note book**

5. Every Registrar appointed under this Act shall keep a register in the form in the Second Schedule and he shall enter therein the particulars to be registered concerning the adoption and he shall also keep a book to be called the Registrar's note book in which he shall record in his own hand all proceedings in respect of the registration of any adoption, the details of the identity of the adopted child, the name of the person adopting it, the name of the person, if any, consenting to the adoption and all evidence taken by him in any such proceeding under this Act.

### **Registration of *de facto* adoptions**

6. (1) Where at the date when application for registration is made any child under the age of eighteen years who has never been married is in the custody of, and is being brought up, maintained and educated by any person, or by two spouses jointly, as his, her or their own child under any *de facto* adoption, and has for a period of not less than two years continuously and immediately before the date of such application been in such

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\*NOTE—This section was referred to as section 3 of Act 190 prior to revision in 1977.

custody and has been so brought up, maintained and educated, the Registrar may, upon the application, in the form in the First Schedule, of such person or spouses, register the adoption if—

- (a) such person or spouses and the child shall appear before the Registrar and shall produce to the Registrar such evidence either oral or documentary as may satisfy the Registrar that such adoption took place;
- (b) the parents or one of the parents, or, if both the parents are dead or if neither of the parents is within Peninsular Malaysia, any guardian of the child shall appear before the Registrar and express consent to the adoption:

Provided that if the Registrar is satisfied that in all the circumstances of the case it is just and equitable and for the welfare of the child he may dispense with the consent of any parent or custodian of the child or with the appearance of any parent or custodian who shall have signified his consent by statutory declaration; and

- (c) the prescribed fees are paid.

(2) The Registrar shall register an adoption by entering the particulars thereof in the register.

### **Copies of registration to be delivered to applicant**

7. (1) Upon the registration of an adoption in accordance with section 6 a certified copy of the entry in the register signed by the Registrar shall be delivered or sent to the person or spouses who applied for such registration, and a certified copy of the entry in the register shall be sent, within such period as may be prescribed, to the Registrar General; and all such certified copies shall constitute the adoption register of the Registrar General.

(2) If the particulars contained in a certified copy of the entry in the register in respect of any adoption, upon being forwarded to the Registrar General in accordance with subsection (1), appear to the Registrar General to be identical with those of an adoption the registration of which has been cancelled in accordance with this Act, he shall return the said certified copy to the Registrar by whom it was sent together with particulars of the adoption the

registration of which has been cancelled and the said Registrar shall thereupon call upon the parties to show cause why the registration of the said adoption should not be cancelled and if the parties fail to show cause the Registrar shall cancel the registration of the said adoption.

### **Parties and witnesses bound to speak the truth**

**8.** (1) Every person who gives evidence before the Registrar shall be bound to state the truth and to answer truthfully all questions which the Registrar may put to him.

(2) Any person who gives any evidence in any enquiry under this Act which he knows to be untrue, or who does any other act, which if done in a judicial proceeding would be punishable under Chapter XI of the Penal Code [*Act 574*], shall be punishable on conviction as provided in that Chapter in the same way as if the act had been done in or in relation to a judicial proceeding.

### **Powers of Registrar**

**9.** For the purposes of this Act every Registrar appointed under this Act shall have all the powers of a First Class Magistrate for the summoning and examination of witnesses and the administration of oaths and affirmations.

### **Refusal of registration**

**10.** (1) If the Registrar is not satisfied of the truth of any statement made to him he may refuse to register the adoption or if he requires evidence with regard to any particulars required to be registered he may postpone registration and he may call for any further evidence that he thinks necessary:

Provided that the Registrar shall record in the Registrar's note book his reasons for any such refusal or postponement.

(2) The Registrar shall not register any adoption unless the person applying for registration, or in the case of an application by two spouses, one of the spouses—

- (a) has attained the age of twenty-five years and is at least eighteen years older than the child in respect of whom the application is made;



(b) has attained the age of twenty-one years and is a brother, sister, uncle or aunt, whether by consanguinity or affinity, of the child, or, if the child is illegitimate, a person who would be so related if the child were legitimate; or

(c) is the mother or father of the child.

(3) The Registrar shall not register any adoption in respect of any person or of any child not ordinarily resident in Peninsular Malaysia.

(4) The Registrar shall not register any adoption in respect of any child who has been the subject of an adoption order made in accordance with the Adoption Act 1952 [*Act 257*].

(5) There shall be no appeal from the cancellation by a Registrar of the registration of an adoption or from the refusal of a Registrar to register an adoption, but such refusal shall not debar the same or another Registrar from registering it if subsequently satisfied that the grounds for his refusal to register either did not exist or have since been removed.

### **Validity of an adoption not affected by registration or non-registration**

**11.** Neither the registration of nor the omission to register any adoption shall affect the validity of the adoption; and, provided that the identity of the adopted child, the person who adopted it and the consenting parties are established with reasonable certainty by the particulars recorded in the Registrar's note book, no error in the particulars recorded in the Register nor any omission to record any particular which ought to have been recorded shall affect the validity of the registration of the adoption.

### **Search for and certified copy of entry in adoption registers**

**12.** (1) The Registrar General and every Registrar shall cause indices to be made of the registers of adoptions kept by them, and any person upon application to the Registrar General or a Registrar, and upon payment of the prescribed fee shall be entitled to have a search made in the adoption register and index thereof, and to have a certified copy of any entry in such register.

(2) Every certified copy of any entry in a register of adoptions, if such copy purports to be signed by any person entrusted under this Act with the custody of any register of adoptions, shall be received for all purposes and in all courts as evidence of the adoption to which it relates, and, where the entry contains a record of the date of the birth of that adopted child, shall be received not only as evidence of the adoption but also as evidence of the date of the birth of the adopted child, without further proof of such register or of any entry therein or of such signature, but not of the validity of such adoption: but a court may, in the absence of any evidence to the contrary, presume any adoption so registered to have been valid and the onus of proving that there was no such valid adoption shall be on the person alleging the same.

### **Amendment of register**

**13.** (1) Any Registrar having custody of a register in which an adoption has been registered in accordance with this Act may, on application in the prescribed manner and on payment of the prescribed fee by the person or spouses who applied for such registration or by the child, amend the register by the correction of any error in the particulars contained therein; and where an entry in the register is so amended a certified copy of the amended entry in the register signed by the Registrar shall be delivered or sent to the person or spouses or to the child and a certified copy of the amended entry in the register shall be sent, within such period as may be prescribed, to the Registrar General.

(2) The Attorney General may apply to a Sessions Court to cancel the registration of any adoption in such manner as may be provided by rules made under the Rules Committee and the court shall send a copy of the order made in every such application to the Registrar by whom such adoption was registered and to the Registrar General and the register shall be amended by cancelling the registration of such adoption if the court so orders.

(3) Where in any proceedings it appears to a court not below the court of a First Class Magistrate that an adoption registered in accordance with this Act is invalid and the court so orders, a copy of the said order shall be sent to the Registrar by whom such adoption was registered and to the Registrar General and the register shall be amended by cancelling the registration of such adoption.

(4) Any person, whether or not a party to the proceedings, who is aggrieved by any decision of a court under subsection (2) or (3) may appeal to the High Court or to the Federal Court (as the case may be) and from the High Court to the Federal Court, in such manner as may be provided by rules made under the Rules Committee.

### **Offences and penalties**

**14.** Any person who forges any entry in any register kept or any certified copy of any entry therein given under this Act or who fraudulently or dishonestly uses as genuine any such certified copy which he knows or has reason to believe to be forged, shall be punishable on conviction with the penalty provided in section 466 of the Penal Code for offences punishable under that section or under section 471 of the Penal Code, as the case may be.

### **Registrars to be public servants**

**15.** Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of the Penal Code.

### **Rules**

**16.** The Rules Committee may make rules for the purposes of this Act and, without prejudice to the generality of the foregoing provision, may in particular make rules—

- (a) prescribing the fees to be charged under this Act;
  - (b) prescribing the manner in which the Registrars shall exercise the powers conferred upon them by this Act;
  - (c) providing for the supply and custody of all registers and Registrar's note books kept under this Act and their disposal;  
and
  - (d) generally for carrying out the purposes of this Act.
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FIRST SCHEDULE  
[Section 6]

*Registration of Adoptions Act 1952*

APPLICATION FOR THE REGISTRATION OF AN ADOPTION

Application for the registration of the adoption of a child named (i)  
..... formerly (ii) .....

I, the undersigned ..... born in ..... race .....  
religion (if any) ..... ordinarily resident at.....

And I, the undersigned ..... his/her wife/husband born in  
..... race ..... religion (if any) ..... ordinarily  
resident at ..... hereby state:

- (1) I am/We are desirous that the adoption of ..... a child of the  
..... sex, and of the..... race, and ..... religion (if  
any) ordinarily resident at ..... hereinafter called “the  
child” be registered under the Registration of Adoptions Act 1952.
- (2) The father of the child is ..... race ..... religion (if  
any) ..... born in ..... and now resident at .....  
whose written consent is appended hereto; and the mother of the child  
is ..... race ..... religion (if any) ..... born in  
..... and now resident at ..... whose written consent  
to the adoption is appended hereto.
- (3) The child was born on the ..... day of ..... 20 ..... and  
is (a) identical with the child to whom the attached certified copy of  
an entry in the Register of Births relates; or (b) is identical with the  
child to whom the attached statutory declaration relates.
- (4) The child is ordinarily resident in Peninsular Malaysia and has never  
been married.
- (5) The child was on ..... day of ..... 20 ..... in  
my/our custody, and being brought up, maintained and educated by  
me/us as my/our own child and has been in my/our custody and so  
maintained and educated from that date onwards.
- (6) The guardian of the child is ..... of the ..... race  
..... and religion (if any) ..... born in .....  
now resident at ..... whose written consent to the adoption  
is appended hereto;
- (7) I ..... am by occupation ..... and am ordinarily resident  
in Peninsular Malaysia.

(8) I am/We are not under 25 years of age, being of the age of ..... years, and am/are not less than 18 years older than the child and am/are a fit and proper person(s) to maintain and bring up the child suitably.

(9) I am/We are not under 21 years of age, being of the age of ..... years, and are related to the child, being .....

[Delete whichever is inapplicable.]

(10) (a) I/We have not agreed to make any payments to the parent(s)/guardian(s) of this child.

(b) I/We have agreed to give remuneration to the parent(s)/guardian as under .....

(c) I/We have not received or agreed to receive any payment or other reward in consideration of the adoption of this child except .....

(11) I/We have/have not made previous application under the said Act in respect of the child to any Registrar.

I do/We do each of us severally solemnly and sincerely declare that the particulars contained in this application are true and I/We each of us severally make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1960 [Act 13].

Subscribed and solemnly declared by the above-named ..... at ..... in the State of ..... this ..... day of 20.....

} ..... Signature of Applicant(s)

Before me,

..... Registrar of Adoptions

Interpreted by me and signed in my presence,

Interpreter

NOTES—

- (i) Insert name by which the child is to be known.
(ii) Delete where there is no change of name. Where there is change of name insert former name, including surname.
(iii) Where the application is made by two spouses jointly the form should be modified, and where the form requires particulars of the applicant to be given, particulars should be given as regards each of the persons by whom the application is made.

- (iv) Insert name or names by which the child is to be known.
- (v) Where a parent of the child is dead the parent's name should be given and the fact stated.
- (vi) If a written consent is not appended the form should be modified so as to indicate that the applicant desires the Registrar to dispense with the consent of the person or body concerned.
- (vii) A certified copy of the entry of the child's birth in the Register of Births is required to be appended to the application in all cases where it can be obtained, or failing this, an affidavit certifying the age and place of birth of the child.
- (viii) This form is required to be completed in duplicate but the documents appended are not required to be in duplicate.
- (ix) There should be inserted here any gifts made or received by the applicant, parent or guardian or any other interested party.
- (x) If a previous application has been made, full particulars thereof must be given.

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SECOND SCHEDULE

[Section 5]

FORM OF ENTRY IN REGISTRATION OF ADOPTIONS REGISTER

No. of Entry	Date and place and country of birth of child	Adoptive name and surname of child	Sex of child	Name and surname, full address and occupation of adopter(s)	Date and place of registration of adoption and name of Registrar	Signature of Registrar

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**LAWS OF MALAYSIA**

**Act 253**

**REGISTRATION OF ADOPTIONS ACT 1952**

LIST OF AMENDMENTS

Amending law	Short title	In force from
Ord. 47/1957	Registration of Adoptions (Amendment) Ordinance 1957	27-08-1957
Ord. 10/1958	Registration of Adoptions (Amendment) Ordinance 1958	01-06-1958
L.N. 332/1958	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
Act 91	Courts of Judicature Act 1964	16-03-1964
Act A354	Constitution (Amendment) Act 1976	27-08-1976
P.U. (A) 133/1982	Revision of Laws (Registration of Adoptions Act 1952) Order 1982	17-09-1981

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**LAWS OF MALAYSIA****Act 253****REGISTRATION OF ADOPTIONS ACT 1952**

## LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
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